

*United States Court of Appeals
for the Second Circuit*



APPENDIX

76-1506

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----x
UNITED STATES OF AMERICA,

Appellee,

-against-

THOMAS FURY and JOHN QUINN,

Defendants-Appellants

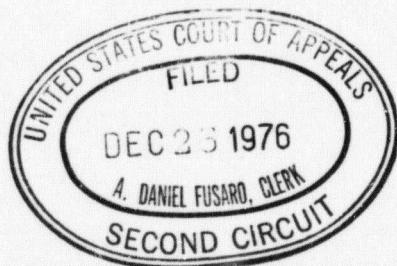
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PLS

VOLUME II
APPENDIX TO BRIEF FILED ON
BEHALF OF THE DEFENDANTS-
APPELLANTS

ON APPEAL FROM A JUDGMENT
OF CONVICTION ENTERED IN
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

MCCARTHY and DORFMAN
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DAVID W. McCARTHY
Of Counsel



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INDEX

| | PAGE |
|--|-------|
| Decision of District Judge George Pratt regarding motion to suppress..... | A-140 |
| Notice of Inventory of conversations seized pursuant to "Schnell Order"..... | A-155 |
| Decision of County Court Judge Vitale..... | A-156 |
| Designation of June 10th, 1970..... | A-160 |
| Designation of July, 18, 1974..... | A-161 |
| Designation of April 9, 1971..... | A-162 |
| Conversations submitted in support of application for extension of "Fury Order" | |
| First conversation..... | A-162 |
| Second conversation..... | A-163 |
| Third conversation..... | A-166 |
| Fourth conversation..... | A-183 |
| Fifth conversation..... | A-188 |
| Sixth conversation..... | A-192 |
| Seventh conversation..... | A-199 |

1 THE CLERK: United States of America against
2 Quinn, Fury and Johnston.

3 THE COURT: Is everyone here?

4 MR. SCHALL: I believe so, Your Honor.

5 THE COURT: Is there any further evidence to be
6 offered in connection with the Suppression Hearing?

7 MR. SCHALL: Your Honor, not at this time.

8 THE COURT: In that case, I am prepared to make
9 my decision.

10 Motions have been made by all defendants to
11 suppress use of the Queens County Wire Taps and all
12 evidence derived therefrom, and to also suppress the
13 fruits of the Nassau County Wire Tap, which have been
14 described in the papers and in testimony submitted to
15 the Court. The motions are made on numerous grounds and
16 I believe the best way to dispose of them is to take
17 the grounds, more or less, in the order presented by
18 the moving papers of Mr. McCarthy.

19 In the preliminary matter, the Court finds that
20 neither defendants Quinn nor defendant Johnston has
21 any standing to challenge the Nassau County Wire Taps.

22 With respect to the challenge by defendant
23 Fury, to the Nassau Wire Taps, first as to the claim
24 that the applicant was not designated in accordance
25 with the requirements of the statute, Section 700.5,

1 Subdivision 5, I believe it is of the New York Criminal
2 Procedure Law. The Court finds based upon the evidence
3 presented that Edward Margolin was in fact the person
4 who was authorized to act in the absence of the Nassau
5 County District Attorney, William Kahn.

6 This finding distinguishes the case from the
7 Giordano case where the individual applied for the wire
8 tap was not one of those contemplated by the statute
9 as being a proper applicant.

10 With respect to the Nassau County Taps, I find
11 that the only person who could have acted in the absence
12 of Mr. Kahn or the first person who could have acted
13 in place of Mr. Kahn, was Mr. Margolin who would make
14 the application. He was authorized to do so as it
15 appears from his own affidavit. Evidence of his position
16 as first in command in the Nassau County District
17 Attorney's office is corroborated by the designation
18 of the succession of Government, which has been presented
19 to the Court.

20 I find that the designation filed under the
21 succession of Government acts, in accordance with the
22 Nassau County Government Law, that this particular
23 instrument is substantial compliance with the designation
24 requirement of Section 702 of the County Government
25 Law, but even if it were not, I have concluded that

A 14

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1 the designation was in fact made and that the fail- 5
2 ure that exists and I have considerable doubt as to
3 that as well, since the only evidence presented to me
4 is a hearsay statement of an attorney, based upon the
5 statement of the attorney's investigator who says that
6 he spoke with some one or worked with some one in the
7 Nassau County Clerk's Office and didn't find the instru-
8 ment in question, but even assuming the instrument was
9 not filed, I conclude that the failure to file under
10 the circumstances here is not fatal for the purposes of
11 suppressing the Nassau County Wire Taps, particularly
12 at this point in time. Years-- after the fact.

With respect to the sealing of the Nassau County
Wire Taps, both the New York State Court of Appeals and
the Second Circuit, the latter, U.S. against Gigante
have indicated that an unexplained failure to unexplainable
delay in sealing does require suppression. In this
case, there is no explanation presently before the
Court as to why there was a delay I believe of 13 or 14
days in sealing the Nassau County Wire Taps.

21 However, in view of the provisions, of Criminal
22 Procedure Law, Section 700.65, Subdivisions 1 and two,
23 I find that under the -- for the purpose for which these
24 wire taps were used, those sections authorized and
25 contemplate that without regard to the sealing require-

ment. The sealing requirement is referred to in Section 700.65 only in Subdivision 3 and I have concluded that the purpose for which they were used here is not, does not fall within the meaning of that subdivision. Consequently, the delay in the sealing here is not the basis for the suppressing of the Nassau County Wire Taps, which are now intended to be used as evidence in this case.

The next contention raised was suppression should be granted of Mr. Fury because he was not provided the 90 statutory days notice of the Nassau County Wire Tap. I find, first, that there is no requirement that he be served with a notice. It's not one of those contemplated by the statute as being entitled, mandatorily, to a notice. In fact, Mr. Fury was served some 21 days after it, some eight days, I believe it was, after the expiration of the period, assuming the period might have been applicable to him, but he was served in 1974.

Even if he were entitled to have been served, he could not succeed in his claim for suppression without establishing the touch stone of the right to relief.

On this ground of failure to receive notices is one of prejudice. No claim of prejudice in the present

1 proceedings has been raised by Mr. Fury and none 7
2 appears would be, with the possible exception of a
3 reference to an affidavit to a guilty plea which
4 Mr. Fury made in another case which he indicates he
5 would not have made, which Mr. McCarthy indicated that
6 he would not have made had he known of the wire taps.

7 If, in the way in which this case develops, it
8 is the defendant jury's belief that the use of that guilty
9 plea would in any way prejudice his interests here my
10 ruling that he is not entitled to suppression of the
11 wire taps, is without prejudice to Mr. Fury's right to
12 seek suppression of that conviction, if he decides to
13 testify in the action or if under any circumstances,
14 the Government should attempt to make use of that conviction.
15

16 With respect to the argument that in the Nassau
17 County Wire Tap Order there was a failure to indicate the
18 agency to conduct the tap, I find that Mr. Medonia,
19 who is apparently the active police officer in administering
20 the tap, was in fact working under the supervision
21 of the District Attorney's Office, notwithstanding the
22 fact that the police officer was in the auto squad of
23 the Nassau County Police Department. It is clear to
24 the Court that the Nassau County Tap was sought by
25 the Nassau County District Attorney's Office. It was

1 the agency which made the application. It was the
2 agency authorized to make the tap and that the action
3 taken by Mr. Medonia and his associates, in executing
4 the tap, were all under the supervision of the District
5 Attorney's Office within the realm of the statute.

6 With respect to the argument that the Nassau
7 County Order was not amended in order to include the name
8 of Mr. Fury, after it was first mentioned in the course
9 of one of the intercepted conversations, the defendant--
10 Fury, is quite correct in his assertion that the Order
11 was not amended but I find that there was no requirement
12 for amendment in this instance. The amendment's portion
13 of the statute focuses upon the transactions, the crimes
14 which are involved. It is not directed at the names of
15 individuals.

16 One of the purposes, of the Wire Taps Statute
17 is to authorize the gathering of information of criminal
18 activities, particularly with respect to additional
19 people who may be engaged in criminal activities, which
20 are under investigation. While the statute does
21 require amendment if additional crimes, beyond the scope
22 of the original authorizing order, are uncovered, it
23 does not, in terms of reasonable implication, require
24 amendments when the names of additional people, other
25 than those named in the Order itself are discovered.

1 Turning to the Queens Wire Taps the first argu-
2 ment advanced, of course, is that the Queens Tap is
3 the fruit of a poison tree. In the determination of
4 that, the tree however was not poisoned, I therefore --
5 there is nothing in the Nassau County Taps which in any
6 way taints the Queens County Taps. The Queens County
7 Taps can be measured on their own merit.

8 The first argument advanced under the Queens
9 County Taps were lack of probable cause in the applica-
10 tion for the original order. I have reviewed the
11 application, the supporting affidavit, and it is my
12 determination that there was probable cause for the
13 Supreme Court Justice in Queens County to grant the
14 Wire Tap, based upon the information which was then be-
15 fore him.

16 One of the arguments advanced by defendant
17 Fury was that the interpretation made of the Nassau
18 County Taps was an interpretation of innocuous phone
19 calls. This argument was also advanced in connection
20 with the applications for extensions of the Queens
21 County order. With respect to that argument, all the
22 Court has been offered is abstracts of the taps in
23 question; the interpretations by the police officers
24 who have studied the abstracts or heard the conversations
25 themselves. The interpretations which they have offered

1 appear to the Court to be reasonable interpretations 10
2 of what is reported in the Taps. They are by no means
3 crystal clear. Perhaps they are ambiguous. They are
4 certainly not innocuous, but I have been given no alterna-
5 tive interpretation of those Taps but Mr. Fury, who
6 was one of the participants in the conversations or
7 by anyone else and I cannot find, on the basis of what
8 is before me, that the determinations by the Supreme
9 Court Queens County Justice, either on the initial
10 issuance or on the renewals of the Orders extensions
11 of the Orders, I cannot find that this determination of
12 probable cause is an improper one.

13 With respect to the claim that there is an
14 insufficient demonstration of having attempted or
15 considered other possible investigative procedures as
16 an alternative to the Wire Tapping, I find the records
17 before the Court, with respect to the initial request
18 and the two extensions, there was a sufficient demonstra-
19 tion that the alternative investigative procedures would
20 not need to be standard contemplated by the statute.
21 In interpreting the statute in this particular instance,
22 I think it is essential that the approach taken be
23 not a literal mechanical one, but one of a common sense
24 application to the circumstances presented. There was
25 sufficient information before the Court in Queens County

1 as to have determined that there was criminal activity 11
2 being carried on by a significantly large number of
3 people in the area of stolen property, particularly
4 stolen automobiles.

5 The Court could also reasonably have determined
6 that the individuals were acting cautiously, that they
7 were sensitive to the potential of police investigation
8 and surveillance, and that the full scope of the criminal
9 conspiracy, if it existed, would not have been deter-
10 mined, except by means of the use of the Wire Taps,
11 requested.

12 If word of the investigation were to leak out
13 to anyone of the members of the group, which apparently
14 was involved at the time of the application for the
15 Queens County Order and the extensions thereof, if that
16 word should get out that there was an investigation
17 in progress, that could have terminated, for all prac-
18 tical purposes, any opportunity by the Queens County
19 New York City Police to have obtained the additional
20 information which they were entitled to seek.

21 With respect to the sealing requirement on the
22 Queens County Wire Taps, there is no question. There
23 was a delay of several days between the completion of
24 the tap and the time that they were sealed. The argument
25 advanced, particularly on behalf of defendant Quinn,

1 is that the warrant does not include the orders extend-
2 ing the warrant and that each thirty day period auth-
3 orized by the warrants, the first extension and second
4 extension, must be considered as separate units, for
5 purposes of the sealing requirements.

6 That argument, the Court cannot accept. The
7 Federal Statute upon which the statute is modelled,
8 speaks in terms of an order authorizing the wire taps
9 and extensions of the Order. The State Statute does
10 not use the term Order. It speaks of a warrant.

11 In the paper work, which was involved in the
12 Queens County tap, a warrant was issued. The subsequent
13 application did not result in documents used by the
14 participants as new warrants, but they were orders
15 extending the original warrant. I therefore interpret
16 the meaning of the New York Statute, with respect to the
17 sealing requirement, to be that the sealing must take
18 place at the termination of the wire tap authorized
19 by the original warrant, and as it may have been ex-
20 tended by subsequent extension orders.

21 With respect to the sealing, the time lapse be-
22 tween determination of the tap in Queens County and
23 the sealing, the affidavits and the stipulated facts
24 so that the tap was terminated, the tapes were immed-
25 iately brought to the District Attorney's Office. An

1 application was prepared for the sealing and it was 13
2 prepared on July 25. It was a Thursday. The Secretary
3 who prepared the application, who customarily processed
4 these matters in the Queens County District Attorney's
5 Office, called the Chambers of the Justice that had
6 issued the original wire tap warrant and found that
7 he was not in. He was not in the following day. The
8 next two days were Saturday and Sunday. It was learned
9 according to the evidence presented, I believe on Tues-
10 day, that that justice was on vacation, whereupon the
11 application was submitted on the following day, the 31st
12 to another justice who signed the Order and directed the
13 sealing of the tapes. There is no suggestion of any
14 tampering with the tapes in the interim.

15 The evidence shows that the tapes were kept in
16 the vault of the District Attorney's Office ,which had
17 limited access on the combination lock during the
18 interim period. It has been stipulated that the other
19 justices were available during the interim period.

20 Under all the circumstances, I do not find
21 that the delay in the submission of the tapes for
22 sealing is unexplained, nor do I find that the delay
23 is an unreasonable one under the circumstances presented
24 by the record. I note that the two New York State cases
25 which have interpreted the word immediately and the

1 New York Statute have both reached the conclusion 14
2 that the word immediately does not mean instantaneously.
3 it is not to be interpreted literally but one of them,
4 People against Carter, speaks in terms of without un-
5 necessary or unreasonable delay and Blanda- speaks
6 in terms of promptly, within reasonable diligence,
7 depending on the circumstances in each case.

8 I find from the evidence here that there has
9 been no unreasonable delay and that the time lapse in
10 sealing has been explained and form no basis for sup-
11 pression.

12 With respect to the notice requirement as applied
13 to the Queens County Tapes, again, as I said before,
14 the touch stone of relief under the notice requirement is
15 prejudice. There has been no claim by any of the
16 defendants through prejudice here.

17 I recognize that there is a split in the circum-
18 stances on this rule. The rule in the Second Circuit,
19 however, seems to be clearly stated in the U.S. against
20 Manfriedi and U.S. against Principi.

21 I understand a case presenting this issue, the
22 U.S. against Donovan, is presently pending in the
23 United States Supreme Court. Till that Court makes
24 a different finding, draws a different conclusion, this
25 Court is bound by the determination of the Second

1 Circuit that prejudice is necessary for a suppression 15
2 on the grounds of failure to receive statutory notice.
3 There is no question here but that the defendants were
4 given, all of the defendants, whether or not they were
5 required to, they were given notice of the taps, in-
6 sufficient time in advance of trial to investigate the
7 taps and to make whatever motions which they deemed
8 appropriate. They have made the motions which already
9 hav . . sumed two days in part-time discussion and
10 presentation of evidence. So, there is no question
11 that there has been sufficient opportunity for the
12 defendants to meet whatever may have been involved in
13 the taps.

14 The functional purpose of the notice has been
15 met even though the statutory requirements may not
16 have been strictly complied with.

With respect to the arguments directed at the
extension orders, arguments have been advanced as to
the lack of probable cause, inadequate statement of
other investigative techniques and the absence of a
specifically designated offense. I reject all of
those arguments, based upon the information presented
to the Justice on each occasion. I find that there
is sufficient information before him to authorize
the issuing of the two extension orders.

1 There is one other argument, going back to
2 the Nassau County Tapes. It developed on the testimony
3 of Sergeant Medonia that two tapes had been taken,
4 one of them the complete transcript or a complete record-
5 ing of all telephone conversations that transpired.
6 The second tape that was taken was a limited one,
7 restricted in accordance with the direction of the
8 Court to conversations relating to the particular
9 criminal activities described in the Order authorizing
10 the Nassau County Taps. The claim was made that the
11 fact that the Nassau County Police had taken a complete
12 tape necessarily invalidated everything else which
13 occurred. I cannot accept the argument, in view of
14 the testimony by Mr. Medonia that the complete tape
15 was not one which could have been monitored while
16 it was being taken, that it was taken solely for the
17 purpose of answering any questions which might arise,
18 that no one has listened to the complete tape since
19 it was taken. I further find that the argument which
20 is raised is centrally one of minimization, but since
21 there has been no attempt, no attempt first to use
22 the Nassau County tapes, in evidence, secondly, there
23 has been no attempt to use the complete tape, there-
24 fore, there does not appear to be any need for minimiza-
25 tion, whether or not minimization might be called in

1 for some other action, other circumstances, should 17
2 some one at some time attempt to make use of the
3 complete tape.

4 I don't have to determine, for present purposes,
5 the circumstances of the making of the complete tape
6 and it does not warrant any relief being granted to the
7 defendants on this motion.

8 In short, gentlemen, the motions for suppression
9 are denied in all respects, with respect to the wire
10 taps, with the one qualification, which I added, with
11 respect to Mr. Fury. It was without prejudice to any
12 relief which might be appropriate with respect to the
13 suppression of the particular guilty plea which he may
14 have entered in ignorance of the existence of the
15 Nassau County Wire Taps. In view of that, it appears
16 that Mr. Bova is not a poison fruit, as the tree, the
17 Queens County Wire Tap is not a poison tree. So, the
18 motions are denied.

19 Did I overlook anything?

20 MR. RYZEROFF: On behalf of my client, Mr.
21 Quim, I respectfully accept to the denial of my motion
22 to suppress.

23 THE COURT: Of course, defendants have automatic
24 exceptions on the motions that they have made there.

25 Are we ready to have a brief recess for a

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NASSAU
STATE OF NEW YORK

63

-----X
Written Notice and Inventory
of
Warrant of Eavesdropping
-----X

PLEASE TAKE NOTICE of the following inventory of a warrant of eavesdropping authorizing interception of communications caused to be served personally upon you pursuant to law:

(1) An order and warrant of eavesdropping authorizing interceptions of communications by the County Court, County of Nassau, State of New York, was in fact entered and issued.

(2) The date of issuance of said order was March 14 1974, and the period of authorized and approved eavesdropping and interception was from March 18, 1974 to April 16, 1974.

(3) During said period, wire communications, to which you were a party, were in fact intercepted.

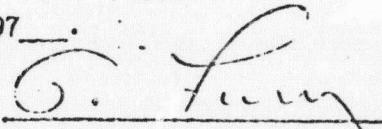
Dated: July 3, 1974.

Yours, etc.,

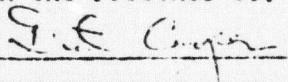
WILLIAM CAHN
DISTRICT ATTORNEY
COUNTY OF NASSAU

A copy of this written notice and inventory was personally served upon me.

Dated: 1974



In the Presence of:

 1156 7-24-74
D-155

Present

Mon. ALEXANDER VITALE

County Judge

Dom. Per. 12

Motion Cal. # C 551

Indictment # 40055

MO. DEPT. OF LIO.
HON. WILLIAM CRANE
District Attorney
Nassau County
Mineola, New York

BARON & VESEL
Attorneys for Defendant Schnell
103-13 Queens Boulevard
Forest Hills, New York 11375

PEOPLE OF THE STATE OF NEW YORK

—against—

Def. *to R.D.F.*
MYRON RONNIE SCHNELL and
MICHAEL NICKERSON

Defendant

This is a motion by defendant, Myron Ronnie Schnell, for an order suppressing all evidence against him derived from wiretapping, as violative of 18 U.S.C. 52516, and to dismiss the indictment for the resulting insufficiency of evidence against him.

Defendant was charged under five separate indictments for various crimes, namely, #40050, Conspiracy in the Third Degree; #40051, Conspiracy in the Third Degree; Criminal Solicitation in the Second Degree; #40053, Grand Larceny in the Second Degree, #40055, Conspiracy in the Third Degree (two counts), #40057, Criminal Facilitation in the Second Degree.

By order dated January 9, 1975, this court granted the defendant's motion that a copy of the order which authorized eavesdropping of the defendant's telephone be furnished him, together with copies of supporting papers, upon which the Justice issued the wiretap order.

The defendant now challenges the validity of the wiretap

order granted by Supreme Court Nassau County (Altimari, J.S.C.), on March 15, 1974, on the grounds that the application for the order was made by the then acting District Attorney of Nassau County, rather than the District Attorney himself.

Defendant concedes that C P L §700.05, subd 5, would permit an acting district attorney to make such application, since such statute says:

***If a District Attorney or Attorney General is actually absent or disabled, the term 'applicant' shall include that person designated to act for him and perform his official function in and during his actual absence or disability."

The defendant argues, however, that C P L §700.05, subd 5, conflicts with the provisions of 18 U.S.C. §2516 which authorizes only the "principal prosecuting attorney of any state or principal prosecuting attorney of any political subdivision thereof" to apply for a wiretap order. The defendant relies on the recent United States Supreme Court decision in United States v. Giordano, 416 U.S. 505, which strictly construes 18 U.S.C. §2516 by invalidating a wiretap order made on application of the Executive Assistant United States Attorney General, rather than by the Attorney General, or designated Assistant Attorney General, as authorized by the federal statute. Giordano, however, has no applicability to the present situation for the Supreme Court noted in its decision that where state wiretap orders are involved, the issue of delegation is a question of state law.

United States v. Giordano, supra, at 416 U.S. 522 n.11 quoting S. Rep. A-15

Practice Commentary, McKinney's Cons. Laws of N.Y. Book 11a, C P L.

\$700.05, It is therefore evident that the legislature had the power to allow acting prosecuting attorneys to apply for wiretap orders.

Further, examination of state law makes it obvious that there is no conflict with the federal statute. In People v. Fusco, 75 Misc 2d 931, 934, the defendant made the identical claim to that raised in the present application. The claim was rejected on the grounds that the acting district attorney is both the principal prosecuting attorney, and is authorized by state law to apply for the wiretap order when the district attorney is actually absent or disabled. The Court in Fusco noted that County Law, §702 subd 2, provides that the district attorney shall designate in writing a file in the office of the County Clerk and Clerk in the Board of Supervisors the order in which his assistants shall exercise the powers and duties of the office, in the event of a vacancy, or when the District Attorney is absent or disabled. County Law §702 subd 3 provides that "the assistant, during the absence or disability of the district attorney, shall perform the powers and duties of the office of the district attorney." Thus, when the district attorney is absent or disabled, the designated assistant assumes the primary responsibility for the initiation and prosecution of criminal cases within the county and becomes in fact the principal prosecuting attorney pro temore. People v. Fusco, supra at 934.

delegation of authority of state prosecutors to apply for wiretap orders, "The important question however is not name but function." S. Rep. No. 1097, 90th Cong., 2d Sess. 98 supra.

Where, as here, the acting district attorney assumes the function of the district attorney, he clearly has the power to apply for a wiretap order under both federal and state law.

Defendant also contends that no proof has been offered that the acting district attorney was authorized to act as district attorney within the framework of the federal and state wiretap statutes. Defendant, however, fails to support his claim by way of sworn allegations of fact which are necessary to a motion to suppress evidence.

C P L §710.60 subd 1. Here the defendant does not challenge the absence or disability of the district attorney, or allege a failure to comply with County Law §702, in relation to designation, despite the fact that such designation would be a public record. People v. Fusco, supra at 936.

Since defendant's motion papers make no allegations of fact as to the lack of authority of the acting district attorney, the motion must summarily be denied without a hearing. People v. Glenn, 30 N.Y. 2d, 252, 262, cert denied 409 U.S. 849.

Based on the foregoing, it is

ORDERED that the defendant's motion be in all respects denied.

GRANTED

ENTER

Alexander Vilde

JCC

DATED:

March 26, 1975

HAROLD W. McCOMBELL
ccw

A-159

COUNTY OF NASSAU

Inter-Departmental Memo

Wednesday, June 10th, 1970

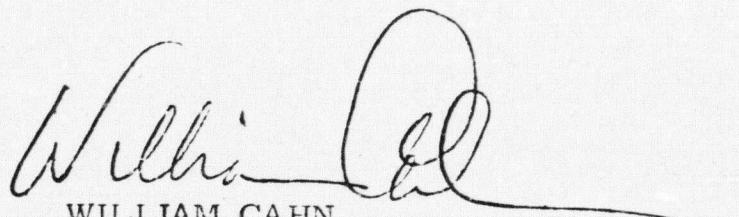
To : Hon. Eugene H. Nickerson, County Executive
Hon. Harold W. McConnell, County Clerk
From : Hon. Angelo D. Roncallo, County Comptroller

William Cahn, District Attorney

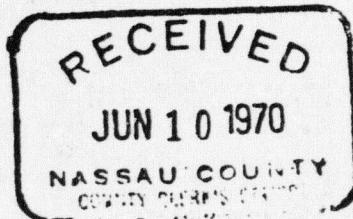
SUBJECT: Designation of Emergency Interim Successors to
Office pursuant to Section 2216 of the County Government
Law of Nassau County providing for continuity of
government in the event of enemy attack or public disaster.

Pursuant to Section 2216 (3) of the County Government Law
providing for the continuity of government in the event of an enemy
attack or public disaster, I hereby designate in order of succession
the following duly authorized deputies or emergency interim successors
for the office of DISTRICT ATTORNEY.

1. EDWARD MARGOLIN
2. HENRY P. DE VINE


WILLIAM CAHN
District Attorney

WC:GMM



COUNTY CLERK
STATE OF NEW YORK
COUNTY OF NASSAU

I, HAROLD W. MC CONNELL, County Clerk of the County of Nassau, State of New York, do hereby certify that I have read the foregoing document and that the same is a true copy of the original, and that the seal of said County Clerk's Office is affixed thereto and that the same is a true copy of the original.

In Testimony whereof, I have hereunto set my hand and affixed the seal of said County Clerk's Office.

JUL 16 1970

Harold W. McConnell, Clerk

A-160

I, WILLIAM CAHN, District Attorney of the County of Nassau,
State of New York, do hereby designate and appoint
HENRY P. DE VINE
an Assistant District Attorney of the County of Nassau, as ACTING
DISTRICT ATTORNEY for the said County of Nassau, to act in my place
and stead in my absence, effective as of the 8th day of July, 1974.

Dated: July 2nd, 1974
Mineola, New York


William J. O'Brien
District Attorney of Nassau County

Original to: County Clerk, Nassau County

Copies to: County Executive
County Comptroller
Clerk, Board of Supervisors

COUNTY CLERK'S OFFICE. (See
STATE OF NEW YORK.
COUNTY OF NEW YORK.)

STATE OF NEVADA,
COUNTY OF LAS VEGAS,
I, HAROLD W. COOPER, Clerk of the County of Nevada and of the
Supreme and County Courts of Nevada, do hereby certify that I have
computed the amount of the sum of \$1,000.00 and that the
same is a true transcript of the original and that the same is an original.
In Testimony whereof, I have hereunto set my hand and affixed the
seal of said County and Court July 3, 1976 Resignation filed
JUL 16 1976

In Testimony whereof, seal of said County and Court A-161 JUL 16 1976
I, John C. Powell, Clerk

epl 10

COUNTY OF NASSAU

Inter-Departmental Memo

Friday, April 8th, 1971

To : HON. RALPH G. CASO, County Executive
From : William Cahn, District Attorney

SUBJECT: Section 2213, County Government Law and 700.05
General Procedure Law
two persons to

I have designated the following ~~three~~ ^{two} ~~daily~~ ^{authorized} deputies
or emergency interim successors:

Edward Margolin
EDWARD MARGOLIN, Chief Assistant District Attorney
and Acting District Attorney
14 Pine Drive, Woodbury, New York, 11797

Robert Roberto Jr.
ROBERT ROBERTO, JR., Assistant District Attorney and
Acting District Attorney
204 Country Club Drive, Manhasset, New York, 11030

Henry P. De Vine
HENRY P. DE VINE, Assistant District Attorney and
Acting District Attorney
29 North Street, Syosset, New York, 11791

W. Cahn
WILLIAM CAHN
District Attorney

WC:GMM

A-162

Time Day Date

PAGE 2 OF 2

TO: 0100 Tue 1/2/64
Time Day Date 1964

ELITED BY Det. George F. Fahrbach # 657 Auto Squad

CALL# TIME NUMBER TEL.#

1905Hrs. Male Out Tommy to female hello mary is Joey home yet female
whos this ans. tommy yeah tommy he just came in the
door, do you want to talk to him, Mary should i tell him
to come on. tommy tell him to call me right back Mary
why you at home tommy yeah Mary ok tommy. tommy by by
thanks.

1906 Hrs. Male Out Re. Junk Auto Non Pert.

1909 Hrs. Male Out Re. Junk Auto Non Pert.

1912 Hrs. Male Out Busy

1913 Hrs. Male Out Re. Junk Auto Non Pert.

1915 Hrs. Male Out No Answer

1917 Hrs. Male Out Re. Junk Auto Non Pert.

1919 Hrs. Male In Joey Tommy i need the plates ans. joey when tommy right
now ans joey come and get them Non Pert.

1925 Hrs. Female Out Non. Pert. Women

1955 Hrs. Male Out Re. Junk Auto Non Pert.

2000 Hrs. Male Re. Junk Auto Non Pert.

2002 Hrs. Male Out Re. Junk Auto Non Pert.

2004 Hrs. Male Out Re. Junk Auto Wrong Number Non Pert.

2005 Hrs. Male Out Wrong Number

2006 Hrs. Male Out Re. Junk Auto Non Pert.

2007 Hrs. Male Out Re. Junk Auto Non. Pert.

2009 Hrs. Male Out Re. Junk Auto Non Pert.

2010 Hrs. Male Out Re. Junk Auto Non Pert.

2011 Hrs. Male Out Re. Junk Auto Non Pert.

Busy

164

A-162

PAGE 1 OF May 9 1974

Time Day Date

Thurs

TO: 0900 WEEK May 9 1974

Time Day Date

ELIMED BY Det. Patrick J Rogers

CALL TIME NEVER TEL #

Tape 0514

0620 Hrs. M-I Tape 534

Tom what do you mean what happened? You were supposed to call me at night
what are you a bullshitter?

John: What are you talking about i called you four times

Tom: Called when? John: Called your house

Tom: When did you call my house at night im home every fucking night, you
aint never called my house

John: What do i have to call at night for? I left a message

Tom: I told you at night, leaving a message is no good. I aint got your phone
number, how the hell am i gonna call you.

John: I left it with your boss down there

Tom: Well i never got it.

John: Well i call him.

Tom: I was there yeasterday there was nobody there.

John: Where? Here? Tom: Yeah

John: Well yeastorday i wasnt here.

Tom: Oh well what do you want from me. If i got no way of getting hold of
you, dont call me at night to tell me to come in the morning, Im no mix
reader.

John: Yeah well i got two over here now you know

Tom: Yeah

John: You want to pick them up, you know

Tom: It will be this afternoon

A-163

17

THURS.
TO: 0900 May 9, 1974
Time Day Date

EDITED BY Det. Patrick J. Rogers

CALL# TIME NUMBER TEL#John: Definditly? dont let me wait for nothingTom: Yeah it will be this afternoon, cause i got a run this morningJohn: Allright what time will it be aboutTom: Figure about one o'clock or twoJohn: One or twoTom: YeahJohn: Can i depend on you now?Tom: Yeah---- meet you where i alwaysJohn: Or i'll get somebody elseTom: Hey-- you want me to be there or notJohn: Yeah-- I'll wait for you---Listen Sonny got bagged you knowTom: Again?John: Sure got a truck in the --- they locked him upTom: Hem ---John: You---Gots---Tom: Whats he using a wrecker?John: He brought a truck off a guyTom: YeahJohn: There was no motor in itTom: YeahJohn: So he brought it off a gas station the guy gave him a bill of sale
so the guy said.Tom: Yeah

A164

177

Thurs
TO: 0900 Week, May 9, 1974
Time Day Date

EDITED BY Det. Patrick J. Rogers

CALL TIME ATTEND TEL. #

John: So the guy turned around came down to the yard, brought a cop down there and locked him up.

Tom: Then he stole it?

John: Yeah

Tom: Then he stole it

John: That what they said

Tom: Then he must have stole it

John: ~~SHH~~ Oh i dont know maybe he did

Tom: He didnt pay the guy

John: I dont know what the hell is going on. All i know he is out on \$ 1,000 bail thats it.

Tom: Oh that kud is bad, boy

John: I dont know what the hell he is doing , you got get permission when you take a truck or car, anything

Tom: You better believe it

John: You know and me over here i got a con act with this guy, i dont care --you know

Tom: Oh its a different story

John: Yeah well i got these two Tom you know?

Tom Allright ill be there this afternoon

John: Allright Ill see you between one and two

Tom: Allright

John: Allright

Tom: Allright

7-00 0234

178

A165

EDITED BY Det. Thomas F. Kelly

CALL# TIME DATER# TEL.#

| | |
|--|------|
| #1. Female Out to Doctor Non Pert | 1740 |
| 2. Male In to Tommy Non Pert | 1810 |
| 3. Female In for Lucille-Not home Non Pert | 1820 |
| 4. Male In to Tommy re: Junk Car. Non Pert | 1825 |
| 5. 1830 hrs. Male-In Junior to Tommy. | |

M.I. You know what's happening right.

Tommy-Yeah I was with him.

M.I. Yeah well I was just trying to get in touch with you.

Tommy Hah

M.I. I was just trying to get through to you.

Tommy-Oh no I was just with him and I was with him when he was with the other to.

M.I. Yeah now we gave the other guy the offer.

Tommy-Yeah

M.I. and the guy is suppose to come back at 7 o'clock

Tommy-and that's when we'll see what they want to do

M.I. Yeah

Tommy-and Willie explained to you right.

M.I. Yeah

Tommy-yeah well I think it's better if we it our own way

M.I. Yeah, I don't care anyway cause I tell you one thing something is moving like a son of a bitch.

Tommy-Yeah

M.I. Yeah
Tommy-That's why I'm saying I told him no matter what we had to do we were better off doing it ourselves.

M.I. that's it

Tommy-T hell with that there the other

M.I. How can you work (unreadable)

Tommy-I can't see you know putting 5¢ in your pocket when you can make 25

M.I. That's it

Tommy-you understand what I'm saying

M.I. Yeah

Tommy- Thats stupid to me . You know that's like something you get everyday

M.I. What do you mean

Tommy- You're stupid to take a nickel profit on something when you can make a 25¢ profit.

A-166

36

EDITED BY Det. Thomas F. Kelly

CALL# TIME ANSWER# TEL.# CON'T

M.I. Well how you gonna make 20 bucks

Tommy-By waiting a little, do it yourself

M.I. Oh yeah

Tommy-But I don't give it to somebody else for nothing.

M.I. Yeah well I say later we go get a few more boxes of pants because pants are going like a bastard.

Tommy- Yeah

M.I. Yeah

Tommy-I don't know, you think we should

M.I. They wouldn't know. They wouldn't know in a million years.

Tommy- I don't know whatever

M.I. So we can make a few hundred ourselves.

Tommy- I know what your saying

M.I. You know what I mean

Tommy- I don't care

M.I. Cause let me tell you something we've gonna get beat by Willie anyway, anyway you look at it.

Tommy-yeah

M.I. I know him like a book, whay do yo think hes giving us the right price, sure, Thats what I say, I ain't gonna let it happen to me anymore

Tommy-yeah

M.I. I tell you wait in the house for my call.

Tommy-Alright now what do you want to do.

M.I. Hah

Tommy-You want to meet me at A Quarter after 7 there

M.I. Where

Tommy-Where we were

M.I. No its got to be after that

Tommy-OK

M.I. Cause I'm in the hospital now

Tommy-Oh

M.I. Its got to be at least a quarter to 8.

Tommy- Call me at the house when your ready.

M.I. Hah Hah Cause got a lot of pants there

Tommy-Yeah

M.I. and she needs more

Tommy-Alright I ain't leaving the house.

M.I. Alright

36A

A-167

MICROFONIC INTERCEPTION ()

FROM: 1700 Thursday 5-16-74

Time Day Date

PAGE 3 OF 1

TO: 0100 Friday 5-17-74

Time Day Date

EDITED BY Det. Thomas F. Kelly

CALL# TEL# METER# TEL#

Tommy-You call me when your ready

M.I. I'll call Willie

Tommy-Bye Bye

M.I. We got to get a few more clocks to

Tommy Alright

M.I. Alright did they count them all

Tommy-hah

M.I. They didn't count them all did they

Tommy- I don't know (? George)

M.I. Willie didn't make no count

Tommy-No

M.I. No alright we didn't get no shirts either.

Tommy-No

M.I. Alright

Tommy-Alright

M.I. Yeah

Tommy-call me here

M.I. Alright, wait for my call at your house.

Tommy-Hah

M.I. Wait for my call there

Tommy-I will cause I ain't leaving it.

M.I. Alright

Tommy-Alright

#6. 1855hrs M.O. Tommy re: Junk Oldsmobile Non pert

7. 1900 hrs F.O. Non pert

8. 1910 hrs Call out busy

9. 1912 hrs M.O. to Eddie Lee re: Ins. 266-6493 Non pert

10. 1915 hrs Call out no answer

11. 1942 hrs M.I. to Tommy re: junk cars-Rafael 80 Dwight St. 522-3055

368

A-168

TELEPHONIC INTERCEPTION (x)

PLATE 63 REEL 1

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thursday 5-16-74
Time Day Date

PAGE 4 OF 1

TO: 0100 Friday 5-17-74
Time Day Date

EDITED BY Det. Thomas F. Kelly

CALL# TIE METER# TEL#

#12. 1945 hrs Call out busy

13. 1946 hrs M.O. to Opr. Non Pert

14. 1947 hrs MO, to Information Non pert

15. 1948 hrs Call out busy

16. 1950 hrs M.I. TO TOMMY (This conversation will be edited at a later date. Reel #1 was taken off tape recorder because of incoming call. Conversation is near the end of tape)

17. 2005 hrs M.O. Tommy to Rafael-will pick up junk car at 11 o'clock in the morning.

18. 2010 hrs Call out no answer.

19. 2120 hrs M.I. None pert

20. 2125 hrs F.I. Non pert

21. 2135 hrs Call out busy

22. 2140 hrs Call out busy

23. 2147 hrs F.I. Non pert

24. 2200 hrs. Call out-no answer.

25. 2205 hrs F.I. Non pert

36C

TELEPHONIC INTERCEPTION (x)

PLATE 63 RECD. 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thursday 5-18-74
Time Day Date

PAGE 5 OF 1

TO: 0100 Friday 5-19-74
Time Day Date

ELIVED BY Det. Thomas F. Kelly

CALL TIME NEVER TEL.

#26. M.I. to Tommy (Mike)

M. Yeah.

T. Yeah, this is Tommy

M. Yeah, hey, how are you doing?

T. Not much.

M. Hey, you there

T. Yeah

M. Oh what's going on up there?

T. Nothing you know, so, so.

M. Everthing quiet?

T. Yeah.

M. Got my phone put in so I gave him my number

T. Alright, good.

M. That guy you were telling me about, that backs up those things?

T. Yeah?

M. Unreadable

T. Yeah

M. Does he still get them? Can you still do it?

T. Yeah.

36A

A-170

TELEPHONIC INTERCEPTIO. (x)

PLATE 63 REEL 2

MICROPHONIC INTERCEPTION. ()

FROM: 1700 Thursday 5-16-74
Time Day Date

PAGE 6 OF 1

TO: 0100 Friday 5-17-74
Time Day Date

ELATED BY Det, Thomas F, Kelly

CALL# TIME REVER# TEL#

M. You know any charges or what.

T. You come and you talk, he can explain to you in black and white.
Thats the best way. Thats the only way to do it.

M. I know, you know I'M looking for a couple free.

T. Yeah now you can do whatever you want. I mean you can you know
He'll tell ya in black and white.

M. Yeah, I was Just figuring it would be nice if I could get a couple
Free.

T. Yeah well I think he's got some with the titles that are down
there to

M. M. I'd rather not play with them.

T. Yeah

M. You know

T. Yeah I know

M. Unreadable

T. Well hes got some here to you know. Best thing is without him
them. Better then me explain is to you to sit down and let him
he can tell you rightto the nitty gritty, you know.

M. I won't be any problem me coming up there.

7-171

365

TELEPHONIC INTERCEPTION ()

PLATE 63 REEL 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thursday 5-16-74
Time Day Date

PAGE 7 OF 1

TO: 0100 Friday 5-17-74
Time Day Date

EDITED BY Det. Thomas F. Kelly

CALL TIME REFERRED TEL. #

T. What?

M. Won't be any problem for me to come up there.

T. Hell no-no I'm ice cold. Hm

M. I'M ice cold now--OH

T. No problem.

M. I'll never----you know?

T. Yeah

M. You go outside and their pulling that shit again.

T. yeah yeah- I think that it would be your best bet to be honest with you, cause it somethin, I you know, it something, you can't sit down and explain. I think this guy could tell better than me.

M. Alright

T. He could tell just what you exactly what your doing, I mean what you what you got, what you ain't got, what you can do, what you can do with them, cause this is his bag.

M. Yeah I'd like to

XXXXXX X X X X X X X X

T.

ED BY Det. Thomas F. Kelly

CALL THE METER TEL. #

Tom-Yeah-I'd guess he would XXX do it
right then

Mike-I could get the thing squared off down
here, and get you squared off, and get
on, and get on the road.

Tom-Yeah-it's that bad, Hm?

Mike-Yeah-bad

Tom-Yeah

Mike-They are suppose to be coming up with
30 charges next month.

Tom-Whoa

Mike-They got this big investigation going or

Tom-Oh yeah

Mike-How the hell their going to up with 30
charges on me, I don't know.

Tom-Bad

Mike-This is what they say in a statement

Tom-Oh

Mike-Its suppose to be pretty good cases
you know?

366

A-172

TELEPHONIC INTERCEPTION (X)

PLATE 63 REEL 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thurs. 5-16-74
Time Day Date

PAGE: 9 OF 1

TO: 0100 Fri. 5-17-74
Time Day Date

ELATED BY Det. Thomas F. Kelly

CALL TIME NEVER TEL.

Tom-Oh

Mike-The fucks

Tom-Yeah

Mike-Yeah I figure that's enough

Tom-Yeah I'd say that would be your best
thing, you know? You do what you want,
but I think that's the only way to do
business with it.

Mike-I know what it all is, you know, you know

Tom-If you let me know exactly, exactly, when
your know going to come, you know be
sitting there.

Mike-You know that kid that used to work for
what's his name, out there, you know?

Tom-Yeah

Mike-Yeah, well he's going to be playing the
platter frattler deal

Tom-Oh shit

Mike-Yeah-We've just trying to find where
he's hidding the stuff.

36 H

A-174

TELEPHONIC INTERCEPTION (X)

PLAY # 63 REEL # 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thurs 5-16-74
Time Day Date

PAGE # 10 OF 1

TO: 0100 Fri 5-17-74
Time Day Date

EDITED BY Det. Thomas F. Kelly

CALL # TIME REC'D BY TEL. #

Tom-Oh

Mike-Yeah

Tom-Oh well

Mike-You know

Tom-Sometimes you got to be that way.

Mike-You know, we heard it before but no one
would believe it, you know, yeah, but
it's black and white now.

Tom-Whoa

Mike-So who know's right

Tom-Hmm Hmm

Mike-You don't believe those things till you
know for sure, right?

Tom-I know what your saying.

Mike- But I can't afford about thirty more
charges, that's for sure.

Tom-Yeah-oh boy--so, you know--I would say
you know, whenever you get your head
together, then tell me.

A-175

365

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thurs 5-16-74
Time Day Date

PAGE 11 OF 1

TO: 0100 Fri. 5-17-74
Time Day Date

ELIVED BY Det. Thomas F. Kelly

CALL# TIME NUMBER TEL.#

Mike-Alright

Tom-Then I'll set it up, cause I can get hold of him in a matter of hours.

Mike-OH

Tom-Cause

Mike-Alright, let me pick that up, and get a few things together this weekend, and I'll probably come up, like during the week.

Tom-Oh-like anytime, like ~~xx~~ I'll let him know.

Mike-Alright he

Tom-And this way ~~xx~~ can sit down and tell you what it is, if you want it ~~xx~~ you want. i that's all, cause he knows his business.

Mike-Yeah, you know I was looking for the first three.

Tom-Yeah

Mike-You just forget it, so should I bring The paper?

A-176

36 J

FROM: 1700 Thurs 5-16-74
Time Day Date

PAGE: 12 OF 1

TO: 0100 Fri 5-17-74
Time Day Date

EDITED BY Det. Thomas F. Kelly

CALL# TLE 1111# TEL#

Tom-Yeah Yeah-No problem everything is a
right. Nobody is doing nothing.

Mike-They pinched Frankie the day before
Yesterday

Tom-They got who.

Mike-My brother.

Tom-What about him?

Mike-They got him about two days ago.

Tom-No kidding.

Mike-Yeah-he had three cars, he was selling
them.

Tom-Whoa

Mike-Well also somebody

Tom-Yeah

Mike-A car lot

Tom-They were waiting for him.

Mike-Was suppose to be a friend of his right?

Tom-Yeah

MikeThe fucking guy had

A-122

36K

Time Day Date

13 OF 1

to: 0100 Fri. 5-17-74
Time Day Date

EDITED BY Det. Thomas F. Kelly

ALL TIME REC'D TEL.

Tom-Whoa

Mike-He walksn in with three or four nothers

Tom-Hmm

Mike-Didn't even charge him.

Tom*Are you serious?

Mike-No they took the cars.

Tom-Minkeen!!

Mike-Came over tonight to tell me about it.
I heard about it when it happened, but
he come over tonight. See that?

Tom-Does that tell you something?

Mike-Hmm--you telling we didn't know a long
time ago right?

Tom*Laugh

Mike-A 72 Caddie-73 Vet-no-73 Monte Carlo
you kidding

Tom-No

Mike-Phony titles on them to.

Tom-Hmm

Mike-I don't know what hes playing with them
for, Whoa.

Tom*He walked home

A-178

262

TELEPHONIC INTERCEPTION (X)

PLATE 63 REEL 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thurs 5-16-74
Time Day Date

PAGE 14 OF 1

TO: 0100 Fri. 5-17-74
Time Day Date

ELIVED BY Det. Thomas F. Kelly

CALL "THE JEWEL" TEL. #

Tom-Can't blame him.

Mike-Yeah well-I didn't want to hear it.

Tom-Yeah-but its your own brother you know?

Mike-Yeah-it must be nice eh?

Tom-Yeah it ain't for me.

Mike-Yeah.

Tom-I'll do it the hard way.

Mike-Yeah well.

Tom-I can walk down the street with my head up

Mike-Hmm

Tom-I can walk around with my head up.

Mike-Yeah-you can walk around and look behind
you.

Tom-Thats right-that kind in the long run
get it.

Mike-you did the right thing.

Tom-It's the best thing Mike, is let me know,
whenever, and I'll see, I'll set it up for
this kid, He's no kid, he's a man, you
know, he could do the right thing for you.

A-79

3619

TELEPHONIC INTERCEPTION (X)

PLATE 63 REEL 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thurs. 5-16-74
Time Day Date

PAGE 15 OF 1

TO: 0100 Fri. 5-17-74
Time Day Date

ELIVED BY Det. Thomas F. Kelly

CH # THE NEVER TEL.

Mike-Alright let me get this shit together
this weekend and I'll come up during
the week.

Tom-Alright just let me know like a day ahead
of time.

Mike-Yeah

Tom-I can get a hold of him, and I'll make sure
he is not busy, and tired up, doing nothin

Mike-Alright-You know

Tom-He can lay it down in black and white--
thats all and see what happens.

Mike-Alright-and like you know, that first
price you gave me.

Tom-It's going good here.

Mike-Yeah-I know.

Tom-They're doing terrific with it/

Mike-You know

Tom-Yeah-well thats it, you know, they stroke
it like a champ.

A-180

36N

TELEPHONIC INTERCEPTION (X)

PLATE 53 RECD. 7

MICROPHONIC INTERCEPTION ()

FROM: 1700 Thurs. 5-16-74
Time Day Date

PAGE 16 OF 1

TO: 0100 Fri. 5-17-74
Time Day Date

EDITED BY Det. Thomas F. Kelly

CALL# TIME NEVER# TEL.#

Mike-Yeah I imagine they do

Tom-So

Mike-But I can't

Tom-I know what you mean, so alright, let me know what you want to do.

Mike-OK

Tom-No hassel

Mike-Alright Alright you got my number if anything comes up.

Tom-Yeah

Mike-How did you make out down there?

Tom-I got to come back the 29th

Mike-Oh

Tom-This is final I think, So that's about it, see what happens.

Mike-The worst of it.

Tom-Yeah-next month I'm all done with my thin

Mike-Alright-I'll catch you during the week

A-181

360

to: 0100 Fri. 5-3 6-74
Time Day DateEDITED BY Det. Thomas F. KellybCALL TIME 11PM/ TEL. #

Tom-Alright Mike, just let me know a day ahead of time, this way I'll take care of this thing.

Mike-----

Tom-Hmm-I didn't hear you?

Mike-I was talking to Sal.

Tom-Oh-oh

Mike-He still hasn't grown up.

Tom-Oh alright, just let me know.

Mike-OK

Tom-I'll be able to help you.

Mike-OK I'll talk to you during the week.

Tom-OK Buddy bye.....

A-182

36P

ALL TIME METERED TEL. # 4

Page # 1 Of 5

44 Hrs. Female In Non Pert. Tape 0171-0172

40 Hrs. Female In Non Pert. Tape 0172-0175

40 Hrs. Male In Is Tommy Home (Pause)

Tommy Yeah

Male In Hello Tommy where were you I was trying to get you this morning

Tommy Yeah I've been home

Male In Yeah I couldn't you know what happened I was going crazy asking everybody to get the number off them I said I'll look in my phone book and I had your number So I wanted to get straight that Augie out you know and also there were a few other people I wanted to straighten out

Tommy Yeah

Male In Yeah an ah lets see you know them frying things

Tommy Yeah

Male In What they gotta go what you gotta get for them

Tommy The frying things

Male In The fryers

Tommy Oh I tell you the truth, but I found out one disappointed

Male In What?

Tommy The Clocks were only \$21.95

Male In I told you that

Tommy You were right

Tommy I could unreadable so I went myself

A-483

TELEPHONIC TRANSCRIPTION ()

FROM: 1200 HRS Sun 5-19-74
Time Day Date

PAGE 2 of 1

TO: 0100 HRS Mon 5-20-74
Time Day Date

EDITED BY Dot, Ronald E Tappan

CALL TIME 1200 HRS TEL. # Call # 3 (cont'd)

M.I. You gonna let them go for ten apiece, or what?

Tom. Yeah, you're gonna have to.

M.I. Yeah, I got a lot, I got a lot sold already.

Tom. There's ~~now~~ no hassel with them, I don't think so.

M.I. What about them fryers?

Tom. They gonna be worth a dime, don't they?

M.I. Well, I paid seven (7) dollars.

Tom. Right, what ever.

M.I. What do you think.

Tom. I don't know. (Tom to M.I.) What do you think about the fryers go for? (Tom to M.I.) reply electric fryers ***** unreadable about \$25.

Tom to M.I. \$25. dollars.

M.I. So, what do you have to get for them.

Tom. I said a dime.

M.I. A dime?

Tom. I figure that if were gonna wholesale them.

M.I. Yeah.

Tom. If not, you know they got to be worth... (interrupted by his wife reply is unreadable)

Tom. There teflon she says.

M.I. Huh.

Tom. There terrific, yeah you know that the things that never burns on nothing.

TELEPHONIC INTERCEPTION (xxx)

PLATE: 63 REEL: 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Sun, 5-19-74
Time Day Date

PAGE: 3 OF 1

TO: 0100 hrs, Mon 5-20-74
Time Day Date

ELIVED BY Det. Ronald E Tappan

CALL# THE METER# TEL# Call # 3 Cont'd

M.I. Oh yeah

Tom Yeah these are terrific nothing sticks to them, in other words it's impossible to burn them.

M.I. Alright I gotta pull a few cars up tomorrow.

Tom Ok - good - Good

M.I. I have some orders

Tom Oh Yeah

M.I. Yeah

M.I. I can't do it tonight. I gotta do it tomorrow.

Tom Ok

M.I. - Huh

Tom That's good. What the - Did that kid get back to you.

M.I. - Huh

Tom Did that kid get back to you

M.I. - What kid

Tom The one that came back

M.I. - No Oh I'm going to stall that kid, see what we do first.

Tom Yeah

M.I. - I ain't gonna it's - don't sound right man do you think?

Tom No I'm talking about the kid that aah that you know that van in.

M.I. - Yeah, Yeah

Tom Oh

M.I. - Yeah I spoke to him, you know he didn't call in last, suppose to call tonight.

TELEPHONIC INTERCEPTION (XX)

PLATE # 03 REEL # 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Sun 5-19-74
Time Day Date

PAGE # 4 OF 1

TO: 0100 Mon 5-20-74
Time Day Date

EDITED BY Det. Donald E Tappan

CALL TIME 1700 TEL # call # 3 cont'd

Tom Oh he's checkin' me back to you, Oh that's what I was wondering.

M.I. Hm. You couldn't do anything tonight could you?

Tom No, I don't think it's a smart move.

M.I. No?

Tom I don't know, I don't think so.

M.I. Are they open tonight?

Tom Are they? Yeah but there's just real young teenagers there.

M.I. Oh yeah.

Tom Yeah and you know I strictly don't like to go there with them people.

M.I. Yeah.

Tom You know what I mean.

M.I. Yeah yeah I know.

Tom I don't think it's a good move.

M.I. Alright and a listen you know what a you know a girl matey a barmaid?

Tom The one where we were?

M.I. Yeah with Davey Carnise.

Tom No, really I don't probly if I seen her I would.

M.I. Alright, well either you or JR. you go make peace with her, cause I don't want to make peace with her cause you know, I know her good.

Tom Yeah.

M.I. See you.

5/20/74 1:00 PM 1974

TELEPHONIC INTERCEPTION (xx)

PLATE: 63 REEL: 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Sun 5-12-74
Time Day Date

PAGE: 5 OF 1

TO: oleo Mon. 5-13-74
Time Day Date

EDITED BY Det. Ronald E Tappan

CALL TIME NEVER TEL. # Call # 3 cont'd

Tom Yeah

M.I. So aah you know you can make up prices with her.

Tom Alright

M.I. And tell what you got and get together maybe tomorrow.

Tom Alright well for sure

M.I. Yeah you make the prices. I don't want to make no prices.

Tom Alright

M.I. Alright then I'll get in touch with you tomorrow.

Tom I'll see that's all see what happens from there.

M.I. Alright

Tom Alright end of call Tape #60

#4 2025 HRS. E.O. Non Post. Tape #225

#5 2125 HRS. Call in from male Non Post Tape # 227

A - 187

TELEPHONIC INTERCEPTION ()

PLATE # 63 REEL # 2

MICROPHONIC INTERCEPTION ()

FROM: 1700 Mon. May 20, 1974

Time Day Date

PAGE # 1 OF 6

TO: 0100 Tues. May 21, 1974

Time Day Date

EDITED BY Det. Ronald Tappan

CALL TIME (ENTER # TEL #)

1715 Hrs. Female In. Non Pert. #0241

1730 Hrs. Call Out Not Completed #0245

1740 Hrs. Female Out To Tailor Non Pert. #0252

1810 Hrs. Call Out No Answer #0255

1811 Hrs. Call Out No Answer #0257

1850 Hrs. Call Out No Answer #0262

1903 Hrs. Female In Non Pert. #0263

1910 Hrs. Call Out No Answer #0268

1920 Hrs. Female In Non Pert. #0269

1930 Hrs. Call Out No Answer #0275

1941 Hrs. Female Out Non Pert. #0276

2000 Hrs. Male Out Tom Hello Jr.

Jr. Yeah Tom?

Tom: Jr. you better come and get the key.

Jr. Huh

Tom: I can't get nobody

Jr. Oh Christ

Tom: You can do it yourself, you don't need me

Jr. Aaah I hate to go into there by myself

Tom: Huh I got nobody, hav'nt got a soul

Jr: The guy in the gas station is off?

Tom: Nah he aint there

Jr: Cause them guys are trying to be there as quick as possible

(H#)

A-152

From: 1700 Mon. May 20, 1974

To: 0100 Tues. May 21, 1974

Page # 7 OF 6

Edited By Det. Ronald Tappan

Tom: Yeah

Jr: They wanted to come earlier but I said no the guys gotta go some where.

Tom: Ah man

Jr. They just want to get some samples out you know.

Tom: They want to meet you there?

Jr. Huh ?

Jr. I said I can't go there with out you, I said you'll be there

Tom: Yeah

Jr. So he wants to talk to you anyway.

Tom: Who the kid?

Jr: Yeah

Tom: Why does he want to talk to me for.

Jr: No I told him you wanted to, I wanted to tell him you know

Tom: Oh

Jr: What you gotta get for the junk?

Tom: I gotta have this aint no----- unreadable

Jr: No, they gonna stand there.

Tom: No

Jr: Hes at the place?

Tom: No

Jr: Who's there?

Tom: Just the night man.

Jr: He wont let us in----- unreadable

Tom: He gonna off a blockade----- please alright stay there a few minutes.

Jr: Allright Ill be here.

A-189

From: 1700 Mon. May 20, 1974

To: 0100 Tues. May 21, 1974

Page # 3 OF 6

BEST COPY AVAILABLE

Edited By: Det. Ronald Tappen

Tom: Let me check to see if I can get something (End Of Call)

2005 Hrs. Male Out to Gina - request her to babysit for 45 minutes to 1 hr.

2006 Hrs. Male Out to Jr.

Tommy hello

Male hello Tommy?

Tommy: Yeah

Male Jr:

Tommy Tommy Junior Jr. Ha Ha Ha

Male: Listen you have a few calls here you want them

Tom: Yeah, hold them for me ~~XXX~~ I'll get them first thing in the ~~XXX~~ morning. allright?

Male: I should call them?

Tom: No I'll call them

Male: Why don't you call them tonight.

Tom: Alright I thought maybe you talked to them, did you get a price with them? or what

Male: Only one or two

Male Listen that broad called again you know (sounds like Gil or McGil) what ever her name is you suppose to send 5233.

Tom: Right-Right I keep forgetting the fucking thing.

Male: You want me to give you a phone, she gave me a phone number for you.

Tom: Good good allright hold onto that.

Jr: So pick it up early in the morning she said.

Page # 4 Of 6

Edited By: Det. Ronald Tappan

Tom: Yeah first thing cause I'll be up at 7 what time do you guys open?

Male: So I don't know, but there there at 7:30

Tom: Are they beautiful

Male: You know what I mean

Tom: Thats good, then I'll slack right out because I want to roll tomorrow

Male: Huh Huh.

Male: Has on the phone with Willie

Male: Well what's happening.

Tom: Na not much

Male: It's over the thing?

Tom: Huh

Male: The thing is over

Tom: I don't ----- unreadable you know, not unless he comes way down.

Jr: Yeah I figure maybe he ~~wants~~ take out some stuff.

Tom: I don't know

Male: Hes talking to Willie

Tom: *** *** Unreadable

Male: Tommy I don't know what there doing

Tom: You know what ~~I'm~~ I'm saying

Male: I understand your point is ~~I'm~~

Tom: And I don't want people to say you shouldn't of said this or said that,
In not that way.

Male: I understand that

Tom: Ya know Im funny like that

A-191

FROM 700 Hrs. Tues. May 21, 1974
Time Day DatePAGE 1 OF 7TO: 0100 Hrs. Wed. May 22, 1974
Time Day Date

EDITED BY Det. George F. Fahrbach # 657 Auto Squad

| CALL # | TIME | INTERVIEWER | TEL. # |
|--------|---|-------------|--------|
| 1725 | Hrs. Female In Non Pert Women | | |
| 1955 | Hrs. Male Out Tommy Re. Junk Auto Non Pert. | | |
| 1958 | Hrs. Male Out Tommy Re. Junk Auto Non Pert. | | |
| 2000 | Hrs. Male Out Tommy No Answer | | |
| 2001 | Hrs. Male Out Tommy Re. Junk Auto Non Pert. | | |
| 2003 | Hrs. Male Out Tommy Re. Junk Auto Non Pert. | | |
| 2005 | Hrs. Male Out Tommy Re. Junk Auto Non Pert. | | |
| 2006 | Hrs. Male Out Tommy No Answer | | |
| 2007 | Hrs. Male Out Tommy No Answer | | |
| 2009 | Hrs. Female Out Non Pert Women | | |
| 2012 | Hrs. Male Out Tommy No Answer | | |
| 2020 | Hrs. Female In Re. Card Game Non Pert. | | |
| 2120 | Hrs. Collect Call In Female For Tommy Re. hearing for son Non/Pert. | | |
| 2125 | Hrs. Female In Debbie for her mother Re. Fish Non P Pert. | | |
| 2155 | Hrs. Male In you know something I went over there Tommy: Yeah | | |
| | Male In: You know there a lot of things missing over there | | |
| | Tommy: What's gone | | |
| | Male In: Hm | | |
| | Tommy: Where what's gone | | |
| | Male In: You know these big bif shoes that was there yesterday | | |
| | Tommy: Yeah | | |
| | Male In: There gone where are they? | | |
| | Tommy: Are you kidding | | |

MICROPHO IC INTERCEPTION ()

FROM: 1700 hrs. May 21, 1974 Tues
Time Day Date

PAGE: 2 OF 7

TO: 0100 hrs Wed. May 22, 1974
Time Day Date

ELIMINED BY Dot, George F. Fahrbach # 657 Auto Squad

CALL# TIME NUMBER TEL.#

Male In: No I'm telling you something that guy brought this girl over there

Tommy: What

Male In: He brought his girl over there the guy that owns the place

Tommy: Oh my god

Male In Unreadable----- I don't know what you gonna what you taking your
dealing with this guy. He said what do you got I don't know your dealin
with the other guy wanted big box of shirts.

Tommy: Yeah Yeah

Male In: And he took and she come in and picked out shoes & she suppose
to be there at 10 o'clock tomorrow morning.

Tommy: I don't know I don't know what Jr. did with that guy. I have know
idea.

Male In: All I know there shit missing in there

Tommy: Box of shoes

Male In: Yeah remember them things we saw yesterday with big high heels

Tommy: Oh yeah yeah yeah that's right

Male In: There missing

Tommy: Did Sam take them

Male In: Huh What guy

Tommy: Did that guy take them

Male In: Huh

Tommy: You know that guy that was in there with somebody

Male In: You mean Bert

Tommy: Yeah

A-193

(CB)

MICROPHONE INTERCEPTION ()

FROM: 1700 Hrs. Tues. May 21, 1974
Time Day Date

PAGE 3 OF 7

TO: 0100 Hrs. Wed. May 22, 1974
Time Day Date

ELIVED BY Det. George F. Fahrbach # 657 Auto Squad

CALL# TEL# TEL#

Male In: No he was with me he came there with me the only one in there was
him and then I locked up.

Tommy: Did that other guy bring somebody

Male In: Who no he didn't brought nobody

Tommy: I thought he was going to bring somebody

Male In: He didn't bring nobody he changed his tune

Tommy: Oh now what does he want to do

Male In: Now he wants just two more

Tommy: I don't think we'll go for that

Male In: Yeah now we got to get somebody to buy the whole thing

Tommy: So

Male In: Yeah but I don't know there shit missing anybody got a key or anything

Tommy: No I got two I got one and I gave you one and the other one upstairs
I think, unless I left it with Sam I'll have to check it should be
upstairs, because I have one on my key ring and that's the one I gave
you guys today.

Male In: Will you be there at 10 o'clock tomorrow

Tommy: No I gonna be in the Bronx

Male In: You gonna be in the bronx

Tommy: I have to go there first thing in the morning, I been laying with
thing four days I'm dead.

Male In: Grown

2025 RELEASE UNDER E.O. 14176

(u)

A-194

MICROPHONE INTERCEPTION ()

FROM: 1700 hrs, Tues, May 21, 1974
Time Day Date

PAGE 4 OF 7

TO: 0100 hrs, Wed, May 22, 1974
Time Day Date

EDITED BY Det. George F. Fahrback # 657 Auto Squad

CALL TIME ENTER TEL #

Tommy: Where huh you didn't get ahold of Jr.

Male In: I can't find the guy

Tommy: I don't even have his phone number

Male In: I called him up he aint home

Tommy: Oh

Male In: He aint home.

Tommy: Is he by what's her name

Male In: I have to go to what you it tomorrow morning, no t.

TELLIN: Greenhaven.

Tommy: So what this guy want to do, is he going to meet with you

Male in: I don't know, your friend there what's is name the guy that owns the place.

Tommy: Yeah

Male in: he's going to bring his girl there, but he brought her there already. and they took about 8 pairs of shoes and a pocketbook.

Tommy: Oh what I'll do, I'll go down there, I'll go down there early tomorrow morning.

Male In: yeah you tell him.

Tommy: Because I'm going to the Bronx about 7 o'clock so I should be back by then.

(AC)

A-195

2

FROM: 1700 Tuesday May 21, 1974

PAGE: 5 OF 7

TO: 0100 AM Wednesday May 21, 1974

ELATED BY Det. George Fahrbach

| CALL # | TIME | INTERVIEWER | TEL. # |
|--------|---|--|--------|
| Male | In- | Alright Gchee | |
| Tommy | Yeah | | |
| Male | In- | What's you gonna tell him. | |
| Tommy | If this guy wants to go there just to go to two, I'll say | | |
| Male | In- | Alright if he wants more Thursday or Friday | |
| Tommy | Yeah that we can make out | | |
| Male | In- | Alright | |
| Tommy | Why not sure if I don't see how (unreadable) | | |
| Male | In- | But if a lot of shit keep missing over there how we gonna make out | |
| Tommy | Yeah We've gonna have to do something I don't know are you positive he didn't take them | | |
| Male | In- | He didn't take them | |
| Tommy | Sam | | |
| Male | In- | Your friend | |
| Tommy | Yeah | | |
| Male | In- | I mention it to him he didn't say nothing | |
| Tommy | Yeah let me check and find out if possible he didn't move or remove or something because its very strange | | |
| Male | In- | Yeah right | |

12.196

Tommy-Yeah very strange

Male In-Yeah alright

Tommy-Let me find out somethings fishie so what do you want to do for that I
Think you should go ahead.

Male In-Yeah

Tommy-I don't think we can lose

Male In-Yeah alright

Tommy-Because I got two three people hot to trot with this stuff ready to move

Male In-Alright then lets move it

Tommy-You hear from the other guy

Male In-What guy

Tommy-The one that took the (15) fifteen

Male In-Yeah he wants another one

Tommy-Yeah then we got it don't worry about it

Male In-hes going to be there tomorrow

Tommy-Yeah

Male In-he wants another load

Tommy-Good-hate-beautifully-thats good then we got it made

Male In-Alright

Tommy-Alright then what do you want to do you gonna go over there

Male In-Where

Tommy-By that place because I'll be back by 10

Male In-Alright We'll start moving it anyway

Tommy-If your gonna go alone, what good os that gonna do

Male In-I'll wait there

Tommy-Hes going to wait and in touch with you right

Male In-So you mean tomorrow

Tommy-Well if going up to there how you going to meet him

Male In-Well then I'll go to meet up with him and go there if you want to come along

Tommy-Either that or if you havent got him in hold of junior and the
Junior meet with him

Tommy-Yeah unless you know where to get hold of the guy

Male In- Yeah I know where to get ahold of him he gonna meet me tomorrow
I just told him.

Tommy-Yeah well then you can't go with us if you already told him

Male In-I think hes gonna meet me Thursday, either tomorrow or Thursday

Tommy-Well then let it go till Thursday go do what you ~~it's~~ gotta do and let
it wait one more day its no big deal

Male In-(unreadable) he gonna pay me for that tomorrow
or whenever he comes

Tommy-Yeah yeah

Male In-and hes going to take another one

Tommy-Then let it go to Thursday

Male In-Alright

Tommy-Do what you gotta do

Male In-Alright

Tommy-But if you make an obligation for that with the guy for the two well we
we can make out

Male In-OK

Tommy-Because I got people hot to trot

Male In-Alright

Tommy-But I didn't want to make a move until I know for sure

Male In-OK

Tommy-Alright

Male In-OK

Tommy-OK

2330 hrs. Male In- to Tommy re: fire in Junk Yarn Non pert.

1915 Mrs. Female In Women Talk Non Pert.

1930 Mrs. Male Out Tommy Re. Junk Auto Non Pert.

0'20

1940 Mrs. Female In Nancy For Lucile Re. Shoes Non Pert.

0421

1942 Mrs. Male In

Ronnie Anything on that

Tommy Hub who this

Ronnie Ronnie

Tommy No

Ronnie No

Tommy I aint been able to do nothing with the other car

Ronnie Alright are you working on it?

Tommy Be patient

Ronnie No I don't care the guy just called me

Tommy Yeah allright tell him to be patient I didn't force

Ronnie Alright any of those things with the eight tract
come out

Tommy Not to my knowledge babe

Ronnie Hub

Tommy I don't personally have any

Ronnie Alright

Tommy Unreadable ***** ***** *****

Ronnie Yeah

Tommy Yeah wait it a good thing to remember

Ronnie Right

Tommy I'll remember that

Ronnie Alright

Tommy OK babe over (End 02.07.11) Tape 0421

2105 Mrs. Female In Nancy Re. Shoes for Debbie Non Pert. Tape 0421

2107 Mrs. Female Out Lucile to Gloria Women talk Non Pert. Tape 0421

2215 Mrs. Female In Women Non Pert. Tape 0421

| | | | |
|-----------|--|---|-----------|
| 1705 hrs. | Female-Out | Non. Pert. | Furniture |
| 1770 hrs. | Female-In | | Clothes |
| Female | | I just wanted to speak to you. | |
| Tommy | Yeh | | |
| Female | | Are you bringing me that stuff? | |
| Tom. | What stuff? | | |
| Female | | The shoes and stuff, you are suppose to bring me----- | |
| Tommy | O'h, no I'm going to----- | | |
| Female | O'h----- | | |
| Tommy | I have to wait until tomorrow----- | | |
| Female | | I need somemore stuff----- | |
| Tommy | Yeh | | |
| Female | | You know-----you dont want to talk on the phone? | |
| Tommy | It's all right, you haveto tell me now-----cause I have to get a there in the morning-----because someone is supposed to come and take it from me. | | |
| Female | O'h-----I need some westerns | | |
| Tommy | Small or Large? | | |
| Female | Medium-----15, he-unloaded-all-but-about-eighty-and I-unloaded quite a bit of mediums. | | |
| Tommy | Yeh----- | | |
| Female | | I also might have two stores interested----- | |
| Tommy | O'h? | | |
| Female | | I'll talk to you----- | |
| Tommy | Did you talk to that women? | | |
| Female | Yeh, I'll get an answer from them tomorrow-----no he is not coming to night, he can't make it. | | |
| Tommy | Yeh | | |
| Female | | I'll have an answer on the kids stuff tomorrow. | |
| Tommy | Yeh | | |

| | |
|--------|--|
| Tommy | Yeh? |
| Female | I have to unload----- |
| Tommy | Yeh----- |
| Female | I got rid of a lot, and maybe the big pants. I got rid of a lot of them too. |
| Tommy | Yeh----- that's the end of them. |
| Female | Three fifty we got? Two fifty we got cash here. |
| Tommy | O'h there's no more of them left. |
| Female | I know----- like I said----- |
| Tommy | Slacks, that's the end of them. |
| Female | And also----- when you come will talk about the other stuff----- |
| Tommy | Alright----- that's the main thing you need? Cause I'm going to grab it in the morning. |
| Female | Yeh----- the westerns, those are the main things. |
| Tommy | The two different kinds? |
| Female | Yeh----- the two different kinds. |
| Tommy | The two tone blues, and the other ones with the embroidery, right? |
| Female | No, he cert come tonight, (unable to hear, female talking to another person, away from phone) the other stuff I have ordered right? On the kids stuff? |
| Tommy | Yeh. |
| Female | You want to order----- |
| Tommy | Yeh----- I'll get that----- I'll tell you what I better do*** I better come by early----- |
| Female | you mean tomorrow morning early? |
| Tommy | Yeh, and have it wrote down. |
| Female | And have it written down, alright. |
| Tommy | Alright? |
| Female | |

you'll have to get in touch with me tomorrow night, and I'll let you know what the stores say's here-----

Tommy Yeh, o'kay

Female O'kay?

Tommy Right.

Female Right.

Tommy Right.

END_OF_CONVERSATION.

1705 hrs Female In Non. Pert. Picnic

1825 hrs Male-In Non. Pert. Tailor

1910 Hrs. Male In Tommy Home Lucile has sleeping

Male In OK I'll come over later to see him Non Pert

1955 Hrs. Male Out Unknown male to women Re. tank tops Non Pert.

2015 Hrs. Female In Tira to Lucile Re. Picking her up Non Pert

2015 Hrs. Female Out (Lucile) Non Answer

2125 Hrs. Female Out Lucille (looking for today) to Carol Non Pert.

2240 Hrs. Female-In Non, Pert. Female going out.

2320 Hrs. Female-In Non- fert. Children

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
ss.:
COUNTY OF NASSAU)

Carmela Colling, being duly sworn, deposes and says:
deponent is not a party to this action, is over 18 years of age
and resides at 70 N. Grove St., Freeport, N.Y.

On December 22, 1976, deponent served the with Brief
for Thomas Fury upon David Trager, United States Attorney, attorney
for the People in this action at the Eastern District of New York,
225 Cadman Plaza East, Brooklyn, New York, the address designated
by said attorney for that purpose by depositing a true copy of same
enclosed in a post-paid properly addressed wrapper, in a official
depository under the exclusive care and custody of the U.S. Postal
Service within the State of New York.

Carmela Colling
CARMELA COLLING

Sworn to before me this
22nd day of December, 1976.

LAWRENCE F. SPINN
Notary Public, State of New York
No. 01111111
Queens County, New York
Commission Expires March 30, 1978

Lawrence F. Spin

